



General Assembly

Amendment

January Session, 2009

LCO No. 7392

HB0652907392HDO

Offered by:

REP. FONTANA, 87th Dist.

SEN. CRISCO, 17th Dist.

To: Subst. House Bill No. 6529

File No. 311

Cal. No. 251

**"AN ACT CONCERNING THE LICENSING AND REGULATION OF
THIRD-PARTY ADMINISTRATORS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2009*) As used in sections 1 to
4 15, inclusive, of this act:

5 (1) "Adjuster" means an individual who investigates or settles loss
6 claims. "Adjuster" does not include an employee of an insurer who
7 investigates or settles claims incurred under insurance contracts
8 written by the insurer or an affiliated insurer.

9 (2) "Affiliate" or "affiliated" has the same meaning as provided in
10 section 38a-1 of the general statutes.

11 (3) "Business entity" means a corporation, a limited liability
12 company or any other similar form of business organization, whether
13 for profit or nonprofit.

- 14 (4) "Commissioner" means the Insurance Commissioner.
- 15 (5) "Control" or "controlled by" has the same meaning as provided
16 in section 38a-1 of the general statutes.
- 17 (6) "Insurance producer" has the same meaning as provided in
18 section 38a-702a of the general statutes.
- 19 (7) "Insurer" or "insurance company" means any person or
20 combination of persons doing any kind or form of insurance business
21 other than a fraternal benefit society, and includes a captive insurance
22 company, as defined in section 38a-91aa of the general statutes, a
23 captive insurer as defined in section 38-91k of the general statutes, a
24 licensed insurance company, a medical service corporation, a hospital
25 service corporation, a health care center, and a consumer dental plan
26 that provides employee welfare benefits on a self-funded basis or as
27 defined in section 38a-577 of the general statutes.
- 28 (8) "NAIC" means the National Association of Insurance
29 Commissioners.
- 30 (9) "Person" has the same meaning as provided in section 38a-1 of
31 the general statutes.
- 32 (10) "Sell" means the exchange of an insurance contract for money or
33 other consideration, by any means, on behalf of an insurance company.
- 34 (11) "Third-party administrator" means any person who directly or
35 indirectly underwrites, collects premiums or charges from, or adjusts
36 or settles claims on, residents of this state in connection with life,
37 annuity or health coverage offered or provided by an insurer. "Third-
38 party administrator" does not include:
- 39 (A) An employer administering its employee benefit plan or the
40 benefit plan of an affiliated employer under common management and
41 control;
- 42 (B) A union administering a benefit plan on behalf of its members;

43 (C) An insurer that is licensed in this state or is acting as an
44 authorized insurer with respect to insurance lawfully issued to cover a
45 Connecticut resident, and sales representatives thereof;

46 (D) An insurance producer who is licensed to sell life, annuity or
47 health coverage in this state, whose activities are limited exclusively to
48 the sale of insurance;

49 (E) A creditor acting on behalf of its debtors with respect to
50 insurance covering a debt between the creditor and its debtors;

51 (F) A trust and its trustees, agents and employees acting pursuant to
52 such trust established in conformity with 29 USC Section 186, as
53 amended from time to time;

54 (G) A trust exempt from taxation under Section 501(a) of the
55 Internal Revenue Code of 1986, or any subsequent corresponding
56 internal revenue code of the United States, as amended from time to
57 time, and its trustees and employees acting pursuant to such trust, or a
58 custodian and the custodian's agents and employees acting pursuant
59 to a custodian account that meets the requirements of Section 401(f) of
60 the Internal Revenue Code of 1986, or any subsequent corresponding
61 internal revenue code of the United States, as amended from time to
62 time;

63 (H) A credit union or a financial institution that is subject to
64 supervision or examination by federal or state banking authorities, or a
65 mortgage lender, to the extent such credit union, financial institution
66 or mortgage lender collects or remits premiums to licensed insurance
67 producers or limited lines producers or to authorized insurers, in
68 connection with loan payments;

69 (I) A credit card issuing company that advances or collects
70 premiums or charges from its credit cardholders who have authorized
71 collection;

72 (J) An attorney-at-law who adjusts or settles claims in the normal

73 course of such attorney's practice or employment and who does not
74 collect premiums or charges in connection with life, annuity or health
75 coverage;

76 (K) An adjuster who is licensed in this state or is not subject to the
77 licensure requirements of chapter 702 of the general statutes and
78 whose activities are limited to adjusting claims;

79 (L) An insurance producer who is licensed in this state and acting as
80 a managing general agent, as defined in section 38a-90a of the general
81 statutes, whose activities are limited exclusively to those specified in
82 said section;

83 (M) A business entity that is affiliated with an insurer licensed in
84 this state and that undertakes activities as a third-party administrator
85 only for the direct and assumed insurance business of the affiliated
86 insurer;

87 (N) A consortium of federally qualified health centers funded by the
88 state, providing services only to the recipients of programs
89 administered by the Department of Social Services; or

90 (O) A pharmacy benefits manager registered under section 38a-
91 479bbb of the general statutes.

92 (12) "Underwrites" or "underwriting" means, but is not limited to,
93 the acceptance of employer or individual applications for coverage of
94 individuals in accordance with the written rules of the insurer or self-
95 funded plan, and the overall planning and coordination of a benefits
96 program.

97 (13) "Uniform application" means the current version of the
98 National Association of Insurance Commissioners' Uniform
99 Application for Third Party Administrators.

100 Sec. 2. (NEW) (*Effective October 1, 2009*) (a) No person shall offer to
101 act as or hold himself out to be a third-party administrator in this state
102 unless such person is licensed pursuant to section 11 of this act, or is

103 exempt from licensure pursuant to subsection (b) of this section. This
104 requirement shall not apply to a person employed by a third-party
105 administrator to the extent that such person's activities are under the
106 supervision and control of the third-party administrator. The authority
107 granted to a third-party administrator pursuant to sections 1 to 10,
108 inclusive, of this act shall not exempt such third-party administrator's
109 employees from the licensing requirements of chapters 701b and 702 of
110 the general statutes.

111 (b) (1) Any insurer licensed in this state that directly or indirectly
112 underwrites, collects premiums or charges from, or adjusts or settles
113 claims for other than its policyholders, subscribers and certificate
114 holders shall be exempt from sections 1 to 15, inclusive, of this act,
115 provided such activities only involve the lines of insurance for which
116 such insurer is licensed in this state. Any such insurer shall (A) be
117 subject to the provisions of chapter 704 of the general statutes, (B)
118 respond to all complaint inquiries received from the Insurance
119 Department, not later than ten calendar days after the date a complaint
120 is received by the insurer, and (C) with respect to any advertising that
121 mentions any customer, obtain such customer's prior written consent.

122 (2) Nothing in this section shall authorize the commissioner to
123 regulate a self-insured health plan subject to the Employee Retirement
124 Income Security Act of 1974. The commissioner is authorized to
125 regulate those activities an insurer undertakes for the administration of
126 a self-insured health plan that do not relate to the health benefit plan
127 and that comport with the commissioner's statutory authority to
128 regulate insurance and the business of insurance as provided for in 29
129 USC 1144, as amended from time to time.

130 (c) No third-party administrator shall act as such without a written
131 agreement between such third-party administrator and an insurer or
132 other person utilizing the services of the third-party administrator,
133 which shall be retained as part of the official records of both the third-
134 party administrator and such insurer or other person for the duration
135 of such agreement and for five years thereafter. The agreement shall

136 contain all provisions required by this section, except insofar as those
137 provisions that do not apply to the activities performed by the third-
138 party administrator.

139 (d) The written agreement set forth in subsection (c) of this section
140 shall include, but not be limited to:

141 (1) A statement of activities that the third-party administrator shall
142 undertake on behalf of the insurer or other person utilizing the services
143 of the third-party administrator, and the lines, classes or types of
144 insurance such third-party administrator is authorized to administer;

145 (2) A statement of the activities and responsibilities of the third-
146 party administrator regarding the administration of or any standards
147 pertaining to business underwritten by the insurer, benefits, premium
148 rates, underwriting criteria or claims payment;

149 (3) A provision requiring the third-party administrator to render an
150 accounting, on such frequency as the parties agree, that details all
151 transactions performed by the third-party administrator pertaining to
152 the business underwritten by the insurer or the business of the person
153 utilizing the services of the third-party administrator;

154 (4) The procedures for any withdrawals to be made by the third-
155 party administrator from the fiduciary account established under
156 section 7 of this act. Such procedures shall address, but not be limited
157 to: (A) Remittance to an insurer or other person utilizing the services of
158 the third-party administrator who is entitled to remittance; (B) deposit
159 in an account maintained in the name of the insurer or other person
160 utilizing the services of the third-party administrator; (C) transfer to
161 and deposit in a claims-paying account, with claims to be paid as
162 provided for in subsection (d) of section 7 of this act; (D) payment to a
163 group policyholder for remittance to the insurer or other person
164 utilizing the services of the third-party administrator entitled to such
165 remittance; (E) payment to the third-party administrator for its
166 commissions, fees or charges; and (F) remittance of return premiums to
167 the person or persons entitled to such return premiums;

168 (5) Procedures and requirements for the disclosures required to be
169 made by the third-party administrator under section 9 of this act; and

170 (6) A termination provision, by which either party to the written
171 agreement may terminate such agreement for cause, that includes a
172 procedure to resolve any disputes regarding the cause for termination
173 of such agreement.

174 (e) A third-party administrator or insurer or other person utilizing
175 the services of the third-party administrator may, with written notice,
176 terminate the written agreement for cause as provided in such written
177 agreement. The insurer may suspend the underwriting authority of the
178 third-party administrator during the pendency of any dispute
179 regarding the cause for termination of the written agreement. The
180 insurer or other person utilizing the services of the third-party
181 administrator shall fulfill any legal obligations with respect to policies
182 or plans affected by the written agreement, regardless of any dispute
183 between the third-party administrator and the insurer or other person
184 utilizing the services of the third-party administrator.

185 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) If an insurer or other
186 person utilizes the services of a third-party administrator, the payment
187 of any premiums or charges by or on behalf of an insured to the third-
188 party administrator shall be deemed to have been received by the
189 insurer or other person utilizing the services of the third-party
190 administrator.

191 (b) Return premium payments or claim payments forwarded by the
192 insurer or other person utilizing the services of the third-party
193 administrator to the third-party administrator shall not be deemed to
194 have been paid to the insured or claimant until such payments are
195 received by such insured or claimant.

196 (c) Nothing in this section shall limit any right of an insurer or other
197 person utilizing the services of a third-party administrator to bring a
198 cause of action arising from the failure of such third-party
199 administrator to make payments to the insurer, other person utilizing

200 the services of the third-party administrator, insureds or claimants.

201 Sec. 4. (NEW) (*Effective October 1, 2009*) (a) (1) Each third-party
202 administrator shall maintain and make available to the insurer or other
203 person utilizing the services of the third-party administrator complete
204 books and records of all transactions performed on behalf of the
205 insurer or other person utilizing the services of the third-party
206 administrator. Each third-party administrator shall (A) maintain such
207 books and records in accordance with prudent standards of insurance
208 record keeping, and (B) retain such books and records for a period of
209 not less than five years from the date of their creation.

210 (2) The insurer or other person utilizing the services of a third-party
211 administrator shall own any records generated by such third-party
212 administrator pertaining to such insurer or other person utilizing the
213 services of such third-party administrator. The third-party
214 administrator shall retain the right to maintain continued access to
215 books and records to permit the third-party administrator to fulfill all
216 of its contractual obligations to the insurer, other person utilizing the
217 services of the third-party administrator, insureds or claimants.

218 (b) An insurer that is affiliated with a business entity as set forth in
219 subparagraph (M) of subdivision (11) of section 1 of this act shall be
220 responsible for the acts of such business entity to the extent of such
221 business entity's activities as a third-party administrator for such
222 insurer. Such insurer shall be responsible for furnishing the books and
223 records of all transactions performed on behalf of the insurer to the
224 commissioner upon the commissioner's request.

225 (c) The commissioner shall have access for the purposes of
226 examination, audit and inspection to books and records maintained by
227 a third-party administrator. Any documents, materials or other
228 information in the possession or control of the commissioner that are
229 furnished by a third-party administrator, insurer, insurance producer
230 or employee or agent thereof acting on behalf of such third-party
231 administrator, insurer or insurance producer, or obtained by the

232 commissioner in an investigation shall (1) be confidential by law and
233 privileged, (2) not be subject to disclosure under section 1-210 of the
234 general statutes, (3) not be subject to subpoena, and (4) not be subject
235 to discovery or admissible in evidence in any private civil action. The
236 commissioner may use such documents, materials or other information
237 in the furtherance of any regulatory or legal action brought as a part of
238 the commissioner's official duties.

239 (d) Neither the commissioner nor any person who receives
240 documents, materials or other information as set forth in subsection (c)
241 of this section while acting under the authority of the commissioner
242 shall testify or be required to testify in any private civil action
243 concerning such documents, materials or information.

244 (e) To assist the commissioner in the performance of the
245 commissioner's duties, the commissioner may:

246 (1) Share documents, materials or other information, including
247 documents, materials or other information deemed confidential and
248 privileged pursuant to subsection (c) of this section, with other state,
249 federal and international regulatory agencies, the National Association
250 of Insurance Commissioners or its affiliates or subsidiaries and state,
251 federal and international law enforcement authorities, provided the
252 recipient of such documents, materials or other information agrees to
253 maintain the confidentiality and privileged status of such documents,
254 materials or other information;

255 (2) Receive documents, materials or other information, including
256 confidential and privileged documents, materials or other information
257 from the National Association of Insurance Commissioners or its
258 affiliates or subsidiaries and from regulatory and law enforcement
259 officials of foreign or domestic jurisdictions. The commissioner shall
260 maintain as confidential or privileged any documents, materials or
261 other information received with notice or the understanding that such
262 documents, materials or other information are confidential or
263 privileged under the laws of the jurisdiction that is the source of such

264 documents, materials or other information; and

265 (3) Enter into agreements governing the sharing and use of
266 information consistent with this subsection.

267 (f) No waiver of any applicable privilege or claim of confidentiality
268 in any documents, materials or other information shall occur as a
269 result of disclosure to the commissioner or of sharing in accordance
270 with subsection (e) of this section.

271 (g) Nothing in sections 1 to 15, inclusive, of this act shall prohibit the
272 commissioner from releasing final, adjudicated actions, including for
273 cause terminations of licenses issued to third-party administrators, to a
274 database or other clearinghouse service maintained by the National
275 Association of Insurance Commissioners or its affiliates or subsidiaries.

276 (h) Notwithstanding the provisions of subparagraph (B) of
277 subdivision (1) of subsection (a) of this section, if a written agreement
278 set forth in subsection (c) of this section is terminated, the third-party
279 administrator may, by a separate written agreement with the insurer
280 or other person utilizing the services of the third-party administrator,
281 transfer all books and records to a new third-party administrator. Such
282 new third-party administrator shall acknowledge to the insurer or
283 other person utilizing the services of the new third-party
284 administrator, in writing, that the new third-party administrator shall
285 be responsible for retaining the books and records of the prior third-
286 party administrator as required under subparagraph (B) of subdivision
287 (1) of subsection (a) of this section.

288 Sec. 5. (NEW) (*Effective October 1, 2009*) A third-party administrator
289 shall only use advertising pertaining to the business underwritten by
290 an insurer that has been approved, in writing, by the insurer prior to
291 its use. A third-party administrator that mentions any customer or
292 person utilizing the services of the third-party administrator in its
293 advertising shall obtain such customer's or person's prior written
294 consent.

295 Sec. 6. (NEW) (*Effective October 1, 2009*) (a) Each insurer or other
296 person utilizing the services of a third-party administrator shall be
297 responsible for determining the benefits, premium rates, underwriting
298 criteria and claims payment procedures for the lines, classes or types of
299 insurance such third-party administrator is authorized to administer,
300 and for securing reinsurance, if any. The insurer or other person
301 utilizing the services of a third-party administrator shall provide to
302 such third-party administrator, in writing, procedures pertaining to
303 such third-party administrator's administration of benefits, premium
304 rates, underwriting criteria and claims payment. Each insurer or other
305 person utilizing the services of a third-party administrator shall be
306 responsible for the competent administration of such insurer's or other
307 person's benefit and service programs.

308 (b) If a third-party administrator administers benefits for more than
309 one hundred certificate holders on behalf of an insurer or other person
310 utilizing the services of a third-party administrator, such insurer or
311 other person shall, at least semiannually, conduct a review of the
312 operations of the third-party administrator. At least one such review
313 shall be an on-site audit of the operations of the third-party
314 administrator.

315 Sec. 7. (NEW) (*Effective October 1, 2009*) (a) All premiums or charges
316 collected by a third-party administrator on behalf of or for an insurer
317 or other person utilizing the services of a third-party administrator,
318 and the return of premiums received from such insurer or other
319 person, shall be held by the third-party administrator in a fiduciary
320 capacity. The funds shall be immediately remitted to the person
321 entitled to them or deposited promptly in a fiduciary account
322 established and maintained by the third-party administrator in a
323 federal or state chartered, federally insured financial institution. The
324 third-party administrator shall render an accounting to the insurer or
325 other person utilizing the services of a third-party administrator that
326 details all transactions performed by the third-party administrator
327 pertaining to the business underwritten by the insurer or the business
328 of the person utilizing the services of a third-party administrator.

329 (b) Each third-party administrator that deposits in a fiduciary
330 account charges or premiums collected on behalf of or for one or more
331 insurers or other persons utilizing the services of the third-party
332 administrator shall keep clear records of the deposits in and
333 withdrawals from the account on behalf of each insurer or other
334 person utilizing the services of the third-party administrator. The
335 third-party administrator shall keep copies of all the records and, upon
336 request by the insurer or other person utilizing the services of the
337 third-party administrator, shall furnish such insurer or other person
338 with a copy of the records of the deposits and withdrawals pertaining
339 to such insurer or other person.

340 (c) A third-party administrator shall not pay any claim by making
341 withdrawals from a fiduciary account in which premiums or charges
342 are deposited. Withdrawals from the account shall be made as
343 provided in the written agreement set forth in subsection (c) of section
344 2 of this act.

345 (d) All claims paid by the third-party administrator from funds
346 collected on behalf of or for an insurer or other person utilizing the
347 services of the third-party administrator shall be paid only by drafts or
348 checks of, and as authorized by, such insurer or other person.

349 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) A third-party
350 administrator shall not enter into any written or oral agreement or
351 understanding with an insurer or other person utilizing the services of
352 the third-party administrator that makes or has the effect of making
353 the amount of the third-party administrator's commissions, fees, or
354 charges contingent upon savings effected in the adjustment, settlement
355 or payment of losses covered by the insurer's or other person utilizing
356 the services of the third-party administrator's obligations. This
357 provision shall not prohibit a third-party administrator from receiving
358 performance-based compensation for providing hospital auditing or
359 other auditing services.

360 (b) This section shall not prevent the compensation of a third-party

361 administrator from being based on premiums or charges collected or
362 the number of claims paid or processed.

363 Sec. 9. (NEW) (*Effective October 1, 2009*) (a) When the services of a
364 third-party administrator are utilized, such third-party administrator
365 shall provide a written notice, approved by the insurer or other person
366 utilizing the services of the third-party administrator, to insureds
367 advising them of the identity of, and relationship among, the third-
368 party administrator, the policyholder and the insurer or other person
369 utilizing the services of the third-party administrator.

370 (b) When a third-party administrator collects premiums, charges or
371 fees, the reason for collection of each item shall be identified to the
372 insured and each item shall be shown separately. Additional charges
373 shall not be made for services to the extent the services have been paid
374 for by the insurer or other person utilizing the services of the third-
375 party administrator.

376 (c) The third-party administrator shall disclose to the insurer or
377 other person utilizing the services of the third-party administrator all
378 charges, fees and commissions that the third-party administrator
379 receives arising from services it provides for the insurer or other
380 person utilizing the services of the third-party administrator, including
381 any fees or commissions paid by insurers providing reinsurance or
382 stop loss coverage.

383 Sec. 10. (NEW) (*Effective October 1, 2009*) Any policies, certificates,
384 booklets, termination notices or other written communications
385 delivered by an insurer or other person utilizing the services of a third-
386 party administrator to such third-party administrator for delivery to
387 such insurer's or other person's insureds shall be delivered by the
388 third-party administrator promptly after receipt of instructions to
389 deliver them from an insurer or other person utilizing the services of
390 the third-party administrator.

391 Sec. 11. (NEW) (*Effective October 1, 2009*) (a) A third-party
392 administrator applying for licensure shall submit an application to the

393 commissioner by using the uniform application and paying a fee
394 pursuant to section 38a-11 of the general statutes, as amended by this
395 act. The uniform application shall include or be accompanied by the
396 following information and documents: (1) All basic organizational
397 documents of the applicant, including any articles of incorporation,
398 articles of association, partnership agreement, trade name certificate,
399 trust agreement, shareholder agreement and other applicable
400 documents and all amendments to such documents; (2) the bylaws,
401 rules, regulations or similar documents regulating the internal affairs
402 of the applicant; (3) a NAIC biographical affidavit for the individuals
403 responsible for the conduct of affairs of the applicant, including (A) all
404 members of the board of directors, board of trustees, executive
405 committee or other governing board or committee; (B) the principal
406 officers in the case of a corporation or the partners or members in the
407 case of a partnership, association or limited liability company; (C) any
408 shareholders or member holding directly or indirectly ten per cent or
409 more of the voting stock, voting securities or voting interest of the
410 applicant; and (D) any other person who exercises control or influence
411 over the affairs of the applicant; (4) audited annual financial
412 statements or reports for the two most recent fiscal years that prove the
413 applicant has a positive net worth. If the applicant has been in
414 existence for less than two fiscal years, the uniform application shall
415 include financial statements or reports, certified by an officer of the
416 applicant and prepared in accordance with generally accepted
417 accounting principles, for any completed fiscal years and for any
418 month during the current fiscal year for which such financial
419 statements or reports have been completed. An audited annual
420 financial statement or report prepared on a consolidated basis shall
421 include a columnar consolidating or combining worksheet that shall be
422 filed with the report and include the following: (A) Amounts shown on
423 the consolidated audited financial report shall be shown on the
424 worksheet; (B) amounts for each entity shall be stated separately; and
425 (C) explanations of consolidating and eliminating entries shall be
426 included. The applicant shall include such other information as the
427 commissioner may require to review the current financial condition of

428 the applicant; (5) a statement describing the business plan including
429 information on staffing levels and activities proposed in this state and
430 nationwide. The plan shall provide details setting forth the applicant's
431 capability for providing a sufficient number of experienced and
432 qualified personnel in the areas of claims processing, recordkeeping
433 and underwriting; and (6) such other pertinent information as may be
434 required by the commissioner.

435 (b) A third-party administrator applying for licensure shall make
436 available for inspection by the commissioner copies of all written
437 agreements with insurers or other persons utilizing the services of the
438 third-party administrator.

439 (c) A third-party administrator applying for licensure shall produce
440 its accounts, records and files for examination and shall make its
441 officers available to give information with respect to its affairs, as often
442 as is reasonably required by the commissioner.

443 (d) The commissioner may refuse to issue a license if the
444 commissioner determines that the third-party administrator or any
445 individual responsible for the conduct of the affairs of the third-party
446 administrator is not competent, trustworthy, financially responsible or
447 of good personal and business reputation, or has had an insurance or a
448 third-party administrator certificate of authority or license denied or
449 revoked for cause by any jurisdiction, or if the commissioner
450 determines that any of the grounds set forth in section 14 of this act
451 exists with respect to the third-party administrator.

452 (e) Any license issued to a third-party administrator shall be in force
453 until September thirtieth of each year, unless sooner revoked or
454 suspended as provided in this section. The license may be renewed, at
455 the discretion of the commissioner, upon payment of the fee specified
456 in section 38a-11 of the general statutes, as amended by this act,
457 without the resubmission of the detailed information required in the
458 original application.

459 (f) A third-party administrator licensed or applying for licensure

460 under this section shall notify the commissioner immediately of any
461 material change in its ownership, control or other fact or circumstance
462 affecting its qualification for a license in this state.

463 (g) A third-party administrator licensed or applying for a license
464 under this section that administers or will administer governmental or
465 church self-insured plans in this state or any other state shall maintain
466 a surety bond, for use by the commissioner and the insurance
467 regulatory authority of any additional state in which the third-party
468 administrator is authorized to conduct business, to cover individuals
469 and persons who have remitted premiums, charges or fees to the third-
470 party administrator in the course of the third-party administrator's
471 business, in the greater of the following amounts: (1) One hundred
472 thousand dollars; or (2) ten per cent of the aggregate total amount of
473 self-funded coverage under governmental plans or church plans
474 handled in this state and all additional states in which the third-party
475 administrator is authorized to conduct business.

476 Sec. 12. (NEW) (*Effective October 1, 2009*) A person who is not
477 required to be licensed as a third-party administrator under
478 subdivision (11) of section 1 or section 2 of this act and who directly or
479 indirectly underwrites, collects charges or premiums from, or adjusts
480 or settles claims on residents of this state, only in connection with life,
481 annuity or health coverage provided by a self-funded plan other than
482 governmental or church plans, shall register annually with the
483 commissioner not later than October first on a form designated by the
484 commissioner.

485 Sec. 13. (NEW) (*Effective October 1, 2009*) (a) Each third-party
486 administrator licensed under section 11 of this act shall file an annual
487 report for the preceding calendar year with the commissioner on or
488 before July first of each year or within such extension of time as the
489 commissioner may grant for good cause. The annual report shall
490 include an audited financial statement performed by an independent
491 certified public accountant. An audited annual financial statement or
492 report prepared on a consolidated basis shall include a columnar

493 consolidating or combining worksheet that shall be filed with the
494 report and include the following: (1) Amounts shown on the
495 consolidated audited financial report shall be shown on the worksheet;
496 (2) amounts for each entity shall be stated separately; and (3)
497 explanations of consolidating and eliminating entries shall be
498 included. The report shall be in the form and contain such information
499 as the commissioner prescribes and shall be verified by at least two
500 officers of the third-party administrator.

501 (b) The annual report shall include the complete names and
502 addresses of all insurers or other persons with which the third-party
503 administrator had written agreements during the preceding fiscal year.

504 (c) At the time of filing the annual report, the third-party
505 administrator shall pay a filing fee as specified in section 38a-11 of the
506 general statutes, as amended by this act.

507 (d) The commissioner shall review the most recently filed annual
508 report of each third-party administrator on or before September first of
509 each year. Upon completion of its review, the commissioner shall: (1)
510 Issue a certification to the third-party administrator that the annual
511 report shows the third-party administrator has a positive net worth as
512 evidenced by audited financial statements and is currently licensed
513 and in good standing, or noting any deficiencies found in such annual
514 report or financial statements; or (2) update any electronic database
515 maintained by the National Association of Insurance Commissioners,
516 its affiliates or subsidiaries, indicating that the annual report shows the
517 third-party administrator has a positive net worth as evidenced by
518 audited financial statements and complies with existing law, or noting
519 any deficiencies found in such annual report or financial statements.

520 Sec. 14. (NEW) (*Effective October 1, 2009*) (a) The commissioner shall
521 suspend or revoke the license of a third-party administrator, or shall
522 issue a cease and desist order if the third-party administrator does not
523 have a license if, after notice and hearing, the commissioner finds that
524 the third-party administrator: (1) Is in an unsound financial condition;

525 (2) is using such methods or practices in the conduct of its business so
526 as to render its further transaction of business in this state hazardous
527 or injurious to insured persons or the public; or (3) has failed to pay
528 any judgment rendered against it in this state within sixty days after
529 the judgment has become final.

530 (b) The commissioner may suspend or revoke the license of a third-
531 party administrator, or may issue a cease and desist order if the third-
532 party administrator does not have a license if, after notice and hearing,
533 the commissioner finds that the third-party administrator: (1) Has
534 violated any lawful rule or order of the commissioner or any provision
535 of the insurance laws of this state; (2) (A) has refused to be examined
536 or to produce its accounts, records and files for examination, or (B) if
537 any individual responsible for the conduct of the affairs of the third-
538 party administrator, including (i) members of the board of directors,
539 board of trustees, executive committee or other governing board or
540 committee, (ii) the principal officers in the case of a corporation or the
541 partners or members in the case of a partnership, association or limited
542 liability company, (iii) any shareholder or member holding directly or
543 indirectly ten per cent or more of the voting stock, voting securities or
544 voting interest of the third-party administrator, and (iv) any other
545 person who exercises control or influence over the affairs of the third-
546 party administrator, has refused to provide information with respect to
547 its affairs or to perform other legal obligations as to an examination,
548 when required by the commissioner; (3) has, without just cause,
549 refused to pay proper claims or perform services arising under its
550 contracts or has, without just cause, caused insureds to accept less than
551 the amount due or caused insureds to employ attorneys or bring suit
552 against the third-party administrator to secure full payment or
553 settlement of such claims; (4) fails at any time to meet any qualification
554 for which issuance of a license could have been refused had the failure
555 then existed and been known to the commissioner; (5) has any
556 individual who is responsible for the conduct of its affairs, including
557 (A) members of the board of directors, board of trustees, executive
558 committee or other governing board or committee, (B) the principal

559 officers in the case of a corporation or the partners or members in the
560 case of a partnership, association or limited liability company, (C) any
561 shareholder or member holding directly or indirectly ten per cent or
562 more of its voting stock, voting securities or voting interest, and (D)
563 any other person who exercises control or influence over its affairs,
564 who has been convicted of or has entered a plea of guilty or nolo
565 contendere to a felony, without regard to whether adjudication was
566 withheld; (6) is under suspension or revocation in another state; or (7)
567 has failed to file a timely annual report pursuant to section 13 of this
568 act.

569 (c) (1) The commissioner may, without advance notice and before a
570 hearing, issue an order immediately suspending the license of a third-
571 party administrator, or may issue a cease and desist order if the third-
572 party administrator does not have a license, if the commissioner finds
573 that one or more of the following circumstances exist: (A) The third-
574 party administrator is insolvent or impaired; (B) a proceeding for
575 receivership, conservatorship, rehabilitation or other delinquency
576 proceeding regarding the third-party administrator has been
577 commenced in any state; or (C) the financial condition or business
578 practices of the third-party administrator otherwise pose an imminent
579 threat to the public health, safety or welfare of the residents of this
580 state.

581 (2) At the time the commissioner issues an order pursuant to
582 subdivision (1) of this subsection, the commissioner shall serve notice
583 to the third-party administrator that such third-party administrator
584 may request a hearing not later than ten business days after the receipt
585 of the order. If a hearing is requested, the commissioner shall schedule
586 a hearing not later than ten business days after receipt of the request. If
587 a hearing is not requested and the commissioner does not choose to
588 hold one, the order shall remain in effect until modified or vacated by
589 the commissioner.

590 Sec. 15. (NEW) (*Effective October 1, 2009*) The Insurance
591 Commissioner may adopt regulations, in accordance with chapter 54

592 of the general statutes, to implement the provisions of sections 1 to 14,
593 inclusive, of this act.

594 Sec. 16. Subsection (a) of section 38a-15 of the general statutes is
595 repealed and the following is substituted in lieu thereof (*Effective*
596 *October 1, 2009*):

597 (a) The commissioner shall, as often as [he] the commissioner deems
598 it expedient, undertake a market conduct examination of the affairs of
599 any insurance company, health care center, third-party administrator,
600 as defined in section 1 of this act, or fraternal benefit society doing
601 business in this state.

602 Sec. 17. Subsection (a) of section 38a-11 of the general statutes is
603 repealed and the following is substituted in lieu thereof (*Effective*
604 *October 1, 2009*):

605 (a) The commissioner shall demand and receive the following fees:
606 (1) For the annual fee for each license issued to a domestic insurance
607 company, one hundred dollars; (2) for receiving and filing annual
608 reports of domestic insurance companies, twenty-five dollars; (3) for
609 filing all documents prerequisite to the issuance of a license to an
610 insurance company, one hundred seventy-five dollars, except that the
611 fee for such filings by any health care center, as defined in section 38a-
612 175, shall be one thousand one hundred dollars; (4) for filing any
613 additional paper required by law, fifteen dollars; (5) for each certificate
614 of valuation, organization, reciprocity or compliance, twenty dollars;
615 (6) for each certified copy of a license to a company, twenty dollars; (7)
616 for each certified copy of a report or certificate of condition of a
617 company to be filed in any other state, twenty dollars; (8) for
618 amending a certificate of authority, one hundred dollars; (9) for each
619 license issued to a rating organization, one hundred dollars. In
620 addition, insurance companies shall pay any fees imposed under
621 section 12-211; (10) a filing fee of twenty-five dollars for each initial
622 application for a license made pursuant to section 38a-769; (11) with
623 respect to insurance agents' appointments: (A) A filing fee of twenty-

624 five dollars for each request for any agent appointment, except that no
625 filing fee shall be payable for a request for agent appointment by an
626 insurance company domiciled in a state or foreign country which does
627 not require any filing fee for a request for agent appointment for a
628 Connecticut insurance company; (B) a fee of forty dollars for each
629 appointment issued to an agent of a domestic insurance company or
630 for each appointment continued; and (C) a fee of twenty dollars for
631 each appointment issued to an agent of any other insurance company
632 or for each appointment continued, except that no fee shall be payable
633 for an appointment issued to an agent of an insurance company
634 domiciled in a state or foreign country which does not require any fee
635 for an appointment issued to an agent of a Connecticut insurance
636 company; (12) with respect to insurance producers: (A) An
637 examination fee of seven dollars for each examination taken, except
638 when a testing service is used, the testing service shall pay a fee of
639 seven dollars to the commissioner for each examination taken by an
640 applicant; (B) a fee of forty dollars for each license issued; (C) a fee of
641 forty dollars per year, or any portion thereof, for each license renewed;
642 and (D) a fee of forty dollars for any license renewed under the
643 transitional process established in section 38a-784; (13) with respect to
644 public adjusters: (A) An examination fee of seven dollars for each
645 examination taken, except when a testing service is used, the testing
646 service shall pay a fee of seven dollars to the commissioner for each
647 examination taken by an applicant; and (B) a fee of one hundred
648 twenty-five dollars for each license issued or renewed; (14) with
649 respect to casualty adjusters: (A) An examination fee of ten dollars for
650 each examination taken, except when a testing service is used, the
651 testing service shall pay a fee of ten dollars to the commissioner for
652 each examination taken by an applicant; (B) a fee of forty dollars for
653 each license issued or renewed; and (C) the expense of any
654 examination administered outside the state shall be the responsibility
655 of the entity making the request and such entity shall pay to the
656 commissioner one hundred dollars for such examination and the
657 actual traveling expenses of the examination administrator to
658 administer such examination; (15) with respect to motor vehicle

659 physical damage appraisers: (A) An examination fee of forty dollars
660 for each examination taken, except when a testing service is used, the
661 testing service shall pay a fee of forty dollars to the commissioner for
662 each examination taken by an applicant; (B) a fee of forty dollars for
663 each license issued or renewed; and (C) the expense of any
664 examination administered outside the state shall be the responsibility
665 of the entity making the request and such entity shall pay to the
666 commissioner one hundred dollars for such examination and the
667 actual traveling expenses of the examination administrator to
668 administer such examination; (16) with respect to certified insurance
669 consultants: (A) An examination fee of thirteen dollars for each
670 examination taken, except when a testing service is used, the testing
671 service shall pay a fee of thirteen dollars to the commissioner for each
672 examination taken by an applicant; (B) a fee of two hundred dollars for
673 each license issued; and (C) a fee of one hundred twenty-five dollars
674 for each license renewed; (17) with respect to surplus lines brokers: (A)
675 An examination fee of ten dollars for each examination taken, except
676 when a testing service is used, the testing service shall pay a fee of ten
677 dollars to the commissioner for each examination taken by an
678 applicant; and (B) a fee of five hundred dollars for each license issued
679 or renewed; (18) with respect to fraternal agents, a fee of forty dollars
680 for each license issued or renewed; (19) a fee of thirteen dollars for
681 each license certificate requested, whether or not a license has been
682 issued; (20) with respect to domestic and foreign benefit societies shall
683 pay: (A) For service of process, twenty-five dollars for each person or
684 insurer to be served; (B) for filing a certified copy of its charter or
685 articles of association, five dollars; (C) for filing the annual report, ten
686 dollars; and (D) for filing any additional paper required by law, three
687 dollars; (21) with respect to foreign benefit societies: (A) For each
688 certificate of organization or compliance, four dollars; (B) for each
689 certified copy of permit, two dollars; and (C) for each copy of a report
690 or certificate of condition of a society to be filed in any other state, four
691 dollars; (22) with respect to reinsurance intermediaries: A fee of five
692 hundred dollars for each license issued or renewed; (23) with respect
693 to life settlement providers: (A) A filing fee of thirteen dollars for each

694 initial application for a license made pursuant to section 38a-465a; and
 695 (B) a fee of twenty dollars for each license issued or renewed; (24) with
 696 respect to life settlement brokers: (A) A filing fee of thirteen dollars for
 697 each initial application for a license made pursuant to section 38a-465a;
 698 and (B) a fee of twenty dollars for each license issued or renewed; (25)
 699 with respect to preferred provider networks, a fee of two thousand five
 700 hundred dollars for each license issued or renewed; (26) with respect
 701 to rental companies, as defined in section 38a-799, a fee of forty dollars
 702 for each permit issued or renewed; (27) with respect to medical
 703 discount plan organizations licensed under section 38a-479rr, a fee of
 704 five hundred dollars for each license issued or renewed; (28) with
 705 respect to pharmacy benefits managers, an application fee of fifty
 706 dollars for each registration issued or renewed; (29) with respect to
 707 captive insurance companies, as defined in section 38a-91aa, a fee of
 708 three hundred dollars for each license issued or renewed; [and] (30)
 709 with respect to each duplicate license issued a fee of twenty-five
 710 dollars for each license issued; and (31) with respect to third-party
 711 administrators, as defined in section 1 of this act, (A) a fee of five
 712 hundred dollars for each license issued, (B) a fee of three hundred fifty
 713 dollars for each license renewed, and (C) a fee of one hundred dollars
 714 for each annual report filed pursuant to section 13 of this act."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	New section
Sec. 4	<i>October 1, 2009</i>	New section
Sec. 5	<i>October 1, 2009</i>	New section
Sec. 6	<i>October 1, 2009</i>	New section
Sec. 7	<i>October 1, 2009</i>	New section
Sec. 8	<i>October 1, 2009</i>	New section
Sec. 9	<i>October 1, 2009</i>	New section
Sec. 10	<i>October 1, 2009</i>	New section
Sec. 11	<i>October 1, 2009</i>	New section
Sec. 12	<i>October 1, 2009</i>	New section

Sec. 13	<i>October 1, 2009</i>	New section
Sec. 14	<i>October 1, 2009</i>	New section
Sec. 15	<i>October 1, 2009</i>	New section
Sec. 16	<i>October 1, 2009</i>	38a-15(a)
Sec. 17	<i>October 1, 2009</i>	38a-11(a)